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C O N F I D E N T I A L SECTION 01 OF 03 BAMAKO 000232

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SUBJECT: MALI ARRESTS ITS OWN AUDITOR GENERAL

REF: A. BAMAKO 00195
[1](#)B. BAMAKO 00044
[1](#)C. 07 BAMAKO 00680
[1](#)D. BAMAKO 00077

Classified By: Economic Officer Manoela Borges, Embassy Bamako,
for reasons 1.4 (b) and (d).

1.(C) Summary: On March 31, Malian authorities arrested Mali's Auditor General, Sidi Sosso Diarra, for "obstructing the freedom to work" and "opposition to legitimate authority." The arrest stems from Diarra's controversial firing of eight Office of the Auditor General (OAG) employees and his refusal to abide by a Supreme Court decision ordering their reinstatement. After spending several hours at Bamako's Central Prison, the Public Prosecutor allowed Diarra to return home well after nightfall. Diarra was officially released on bond - apparently against his will - the following day. While some regard the latest drama swirling around the embattled Auditor General as proof that even the powerful are subject to the law, others interpret Diarra's arrest as the latest act in a power play designed to diminish Mali's only independent anti-corruption institution. On April 3 Cheikh Modibo Diarra, a former NASA aerospace engineer and current Microsoft Africa Chairman who also happens to be AG Diarra's brother, told the Embassy that Sidi Sosso Diarra was the victim of widespread corruption within the Malian government. Although AG Diarra has clearly made some mistakes, his arrest illustrated, once again, the Malian legal system's capacity for lightning speed when motivated by concerns that often seem more political than judicial. End Summary.

The AG Goes to Jail

2.(SBU) On March 31, the Investigative Judge of Bamako's Fourth District, Dramane Diarra, ordered the arrest of Auditor General Sidi Sosso Diarra for "obstructing the freedom to work" and "opposition to legitimate authority." The Auditor General's arrest followed a full day of questioning on March 25 on unrelated allegations of financial irregularities by Sombe Thera, Public Prosecutor for Bamako's Third District with special responsibility for economic and financial crimes. After his arrest on March 31, AG Diarra was shuttled under police escort between Judge Dramane Diarra's office and Bamako's Central Prison several times. According to one local newspaper account, Judge Diarra personally escorted the AG back to jail around 10 PM, sparking concern that the AG would spend the night in prison. The AG was soon released, however, following the intervention of yet another Public Prosecutor, this time from Bamako's Fourth District.

3.(C) On April 1, AG Diarra returned to the Fourth District's prosecutors office to pay CFA 1.2 million in bail (approximately USD 2,400). According to some press reports and an account provided by AG Diarra's brother to the Embassy, the AG refused to post bail on his own behalf and

was subsequently bailed out by his lawyer, who was afraid the AG's stint in jail would take a physical and psychological toll.

4.(SBU) The AG's March 31 arrest stems from the controversial firings of eight OAG employees in December 2008 and AG Diarra's refusal to reinstate the employees in accordance with a recent Supreme Court order (Ref. A). Judicial authorities arrested Diarra for violating Article 64 of the Malian penal code, which prohibits all public employees and government officials from using police or military forces to obstruct the enforcement of a legitimate court order. After the Supreme Court's ruling, Diarra allegedly instructed police to forcibly remove the eight employees from OAG offices when the individuals attempted to return to work, with court ruling in hand, on January 5.

5.(SBU) On March 19, the administrative section of the Supreme Court entered an additional order in the case, again finding on behalf of the employees and reminding the Auditor General that he was not "above the law." The filed charges accuse Diarra of "obstructing the freedom to work" and "opposition to legitimate authority." While support for the latter charge, a variant of contempt of court, can be found in Article 84 of the Malian Penal Code, the Embassy is unaware of any criminal statute proscribing obstruction of the freedom to work. Several editorials in local newspapers drafted by local attorneys also expressed confusion over exactly how the charge of "obstructing the freedom to work" was grounded in Malian law.

BAMAKO 00000232 002 OF 003

Rule of Law or Settling of Scores?

6.(SBU) Reaction to the Auditor General's arrest within the Malian press has been mixed. The government newspaper L'Essor, while not directly endorsing the arrest, emphasized Diarra's defiance of legitimate Supreme Court mandates. By contrast, the opposition leaning l'Independant described a "cabal of lawyers" lined up against Diarra in an "orchestrated campaign" to undercut an Auditor General responsible for returning 41 billion FCFA (approximately USD 82 million) in stolen funds to the state. The opposition Info Matin newspaper pointed out the irony of Diarra wasting away in prison while the corruption cases he investigated languish in a prosecutor's desk drawer. An editorial in the same newspaper attributed the incident, somewhat facetiously, to a basic misunderstanding: President Toure never expected the OAG to really fight corruption and created it only to serve as a smokescreen to dupe foreign donors, but AG Diarra never received the memo.

7.(SBU) On April 4 a number of youth associations organized a demonstration in support of the AG. Participating organizations included the Circle for Youth Reflection and Action (CRAJ) whose leader, Mahamane Mariko, himself spent a day in jail on January 14 after CRAJ publicly urged the Malian government to meet recent Tuareg rebel attacks with military force (Ref. B). One local newspaper account of the pro-AG rally, however, noted that there were more reporters in attendance than demonstrators.

8.(C) In an April 3 meeting with Embassy the Auditor General's brother, Dr. Cheikh Modibo Diarra, blamed the AG's travails on generalized corruption within the Malian government. Cheikh Modibo Diarra is a former NASA aerospace engineer and UNESCO Goodwill Ambassador who is now the Chairman of the Microsoft Corporation's Africa division. Based in South Africa, he is also the son-in-law of Mali's former military dictator, Moussa Traore. Diarra briefly considered entering Mali's 2007 presidential race and is frequently rumored as potential presidential candidate for 2012, a theory he did not dissuade during this meeting.

During his meeting with the Embassy Diarra described his brother as a principled figure who would "fall on his sword" trying to bring corruption, and his own political persecution, to light. Diarra recounted a conversation with President Amadou Toumani Toure prior to his brother's appointment as Auditor General, during which AG Diarra reportedly told President Toure that his Ministers and advisors were corrupt, and that the AG was "no puppet". Cheikh Modibo Diarra said President Toure lacks the political will needed to follow up on irregularities uncovered by the OAG's 2007 and 2008 audits, or fight the corruption Diarra views as endemic within the Malian government.

Comment: Sporadically Speedy Justice

9.(C) Malian justice hasn't moved this quickly since June 2007 when judicial authorities, led again by Public Prosecutor Sombe Thera, arrested, tried, convicted and sentenced four journalists and one high school teacher for offending the Head of State (Ref. C). The speed and vigor exhibited by Thera and others in their investigation of AG Diarra stands in stark contrast to their evident disinterest in pursuing any of the actual corruption cases uncovered by Auditor General's Office in recent years. Just two months ago Thera told the Embassy that some Malian prisoners were forced to wait as long as eight years, in clear violation of Malian law, for their day in court. Thera attributed this to "dysfunctions" within the Malian legal system (Ref. D). Recent legal proceedings against the AG may be symptomatic of other dysfunctions - the judiciary's misplaced priorities and lack of political independence.

10.(C) There is another interesting element to Mali's auditing of its own Auditor General. The difficulties confronting AG Diarra began in late 2008 with the leak of a supposedly confidential investigation, conducted by the Supreme Court's Accounting Section, of OAG operations. Many in Mali believe this Accounting Section should be Mali's supreme anti-corruption body. At some point, when the dust around AG Diarra has settled and Mali has a chance to assess what is left, if anything, of the Office of the Auditor General, the Malian government will choose whether to continue with an independent Auditor General's Office or invest, as Mali has done every four or five years since the 1990s, a new institution with corruption fighting powers. If the loser of this latest round of legal investigating is the OAG, the winner may be OAG's longtime rival: the Supreme Court's Accounting Section.

BAMAKO 00000232 003 OF 003

11.(C) Other observers believe the Auditor General has simply gone too far - and has been too vocal - in his attempts to expose corruption within the Malian government. The political capital on which he relied may have finally run out when he reported irregularities within Mali's social housing program, a pet project of President Toure's, and within the Office du Niger, Mali's agricultural development authority. The director of the Niono zone of the Office, Halla Toure, was a key figure in the Mouvement Citoyen, the grassroots organization that was instrumental in helping President Toure to the presidency in 2002.

12.(C) AG Diarra is not beyond reproach himself. Some regard his demeanor as arrogant, and Diarra seems to find some enjoyment in provoking those who are arrayed against him. The irony of the showdown between the courts and the OAG is that they are complementary institutions, both of which must be effective to defeat corruption. Although Diarra is probably a better defender of democracy than his adversaries, his decision to ignore court orders with which he disagrees may prove as damaging to the rule of law if he wins as the OAG's demise would be if he loses.

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